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October 1, 2001

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Mary Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: D.T.E. 98-57, Phase IV

Dear Ms. Cotrell:

Attached to this correspondence, XO Massachusetts, Inc. ("XO") is providing a copy of a recent order of the Federal Communications Commission ("FCC") regarding tariff filings of Verizon for its DC Power charges ("Attachment A"). Attachment A addresses several questions that are either the same or similar to issues under consideration by the Department in this Phase IV proceeding. Attachment A terminates an investigation into a Verizon tariff filing in its FCC Tariff 11¹ which significantly increased the cost of electric power in collocations arrangements and instituted significant penalties for overdrawing power.

Several carriers, including XO, asked the FCC to suspend and investigate the Tariff 11 filing which it did on April 25, 2001. During the investigation, the FCC examined whether the revised prices proposed by Verizon accurately reflected Verizon's costs in providing electric power and whether the prices were reasonable. During the course of the investigation, Verizon withdrew its proposed tariff and agreed to restore the DC power charges to the amounts set before the April tariff filings and refund any additional amounts paid by CLECs under of the proposed rates from April, 2001, to the present. The FCC also left open the possibility of carriers challenging the previous method of charging for power based on the fused amount.²

An examination of the FCC's analysis, concerns and review of the costs and supporting data offered by Verizon for increased DC power charges in it FCC Tariff 11 may be instructive in this similar matter under review by the Department.

¹ Tariff 11 covers the former NYNEX states. Verizon filed similar tariff revisions in its FCC Tariff 1 for the former Bell Atlantic States.

² See footnote 13.

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Accordingly, XO provides Attachment A as an important public reflection of the FCC's determination and resolution of issues similar to those presented in this case.

Please contact me if you have any questions or require additional information. I have included ten (10) copies of this letter. Please return one copy to me marked "filed" in the enclosed envelope.

Sincerely,

/s/ Karen Nations

Karen Nations

Cc: Service list (via electronic mail and first class mail)

ATTACHMENT A

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	CC Docket No. 01-140
)	
Bell Atlantic Telephone Companies)	Transmittal Nos. 1373 and 1374
Revisions in Tariff FCC Nos. 1 and 11)	
)	
Verizon Telephone Companies)	Transmittal Nos. 23 and 24
Tariff FCC Nos. 1 and 11)	
)	
)	

ORDER TERMINATING TARIFF INVESTIGATION

Adopted: September 26, 2001

Released: September 26, 2001

By the Commission:

In this order, we terminate the investigation into the tariff revisions described in the former Bell Atlantic Telephone Companies Transmittal Nos. 1373 and 1374.³ As discussed below, the issues designated for investigation have been resolved and the investigation is therefore moot.

On April 11, 2001 and April 12, 2001, the former Bell Atlantic Telephone Companies (now Verizon) filed Transmittal Nos. 1373 and 1374, respectively, to revise Tariff FCC Nos. 1 and 11 by changing the rates charged to collocators for direct current (DC) power. The tariff revisions in Transmittal Nos. 1373 and 1374 became effective on April 26, 2001. The revisions in Tariff FCC No. 1 changed the monthly rate for DC power for physical collocation and established a new rate element for DC power for virtual collocation in the Verizon South region.⁴ The revisions in Tariff FCC No. 11 changed monthly rates for DC power for physical and virtual expanded interconnection arrangements in Verizon New York/Connecticut and Verizon New England.⁵

Several parties filed petitions to reject or suspend and investigate Verizon's tariff revisions.⁶ On April 25, 2001, the Competitive Pricing Division of the Common

³ The former Bell Atlantic Telephone Companies are now doing business as Verizon Communications (Verizon). Subsequent to filing Transmittal Nos. 1373 and 1374, Verizon filed Transmittal Nos. 23 and 24 in order to issue the Verizon Telephone Companies Tariff FCC Nos. 1 and 11 to replace Bell Atlantic Tariff FCC Nos. 1 and 11. These became effective April 28, 2001. The tariff revisions filed under Bell Atlantic Transmittal Nos. 1373 and 1374 were moved into the Verizon tariffs without change.

⁴ Verizon South includes Washington, D.C., Delaware, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia.

⁵ Verizon New England includes Massachusetts, Maine, New Hampshire, Rhode Island, and Vermont.

⁶ See Conversent Communications Petition to Reject or, in the Alternative, Suspend and Require an Accounting of, the Proposed Revisions of Verizon to its Monthly DC Power Rates in FCC Tariff No. 11 (filed

Carrier Bureau (Bureau) suspended the tariff revisions for one day and set them for investigation.⁷ On June 26, 2001, the Bureau designated issues for investigation in the proceeding.⁸ Verizon filed its direct case on July 17, 2001,⁹ commenters filed oppositions to the direct case on July 31, 2001,¹⁰ and Verizon filed a rebuttal to the oppositions on August 7, 2001.¹¹ Verizon also made several supplemental filings, subsequent to filing its direct case, that provided additional information in response to the *Designation Order*.¹²

On September 25, 2001, Verizon filed an Application for Special Permission seeking waivers of the Commission's rules in order to file tariff revisions, on not more than one day's notice,¹³ that would reinstate the tariff rates, terms and conditions that were in effect immediately prior to the effective date of the tariff rates, terms and conditions filed under Transmittal Nos. 1373 and 1374.¹⁴ Verizon also commits to make refunds to any

Apr. 17, 2001) (Conversent Petition); Association for Local Telecommunications Services, Allegiance Telecom, Inc., Choice One Communications, Inc., Covad Communications Company, Network Plus, Inc., Rhythms Links, Inc., and XO Communications, Inc. Petition to Reject or Suspend and Investigate Proposed Tariff Revisions (filed Apr. 18, 2001) (ALTS Petition); Petition of AT&T Corp. (filed Apr. 18, 2001) (AT&T Petition); Qwest Communications International, Inc. and Qwest Communications Corporation Joint Petition for Suspension or Rejection of Revisions to Verizon Communications Tariff FCC Nos. 1 and 11 (filed Apr. 18, 2001) (Qwest Petition); Sprint Corporation Petition to Reject or Suspend and Investigate (filed Apr. 18, 2001) (Sprint Petition); WorldCom Petition to Suspend and Investigate (filed Apr. 18, 2001) (WorldCom Petition).

⁷ *The Bell Atlantic Telephone Companies Revisions for Tariff FCC Nos. 1 and 11; The Verizon Telephone Companies Tariff FCC Nos. 1 and 11*, Order, DA 01-1077 (Comp. Pric. Div. rel. Apr. 25, 2001) (*Suspension Order*).

⁸ *Bell Atlantic Telephone Companies Revisions in Tariff FCC Nos. 1 and 11; Verizon Telephone Companies Tariff FCC Nos. 1 and 11*, CC Docket No. 01-140, Order Designating Issues for Investigation, DA 01-1525 (Com. Carr. Bur. rel. June 26, 2001) (*Designation Order*).

⁹ Verizon Direct Case, CC Docket No. 01-140 (filed July 17, 2001) (Verizon Direct Case).

¹⁰ The parties that filed oppositions are the Association for Local Telecommunications Services, Allegiance Telecom, Inc., Covad Communications Company, Focal Communications, Inc., Network Plus, Inc., and XO Communications, Inc. (collectively ALTS); AT&T Corp. (AT&T); Sprint Corporation (Sprint); and WorldCom, Inc. (WorldCom).

¹¹ Verizon's Reply to Oppositions to Direct Case, CC Docket No. 01-140 (filed Aug. 7, 2001) (Verizon Rebuttal).

¹² See Letter from Jennifer L. Hoh, Senior Legal Specialist, Verizon, to Magalie Roman Salas, Secretary, Federal Communications Commission (July 27, 2001) (Verizon July 27 *Ex Parte* Letter); Letter from Kenneth Rust, Director Federal Regulatory, Verizon, to Magalie Roman Salas, Secretary, Federal Communications Commission (Aug. 2, 2001) (Verizon Aug. 2 *Ex Parte* Letter); Letter from Joseph DiBella, Regulatory Counsel, Verizon, to Magalie Roman Salas, Secretary, Federal Communications Commission (Aug. 14, 2001) (Verizon Aug. 14 *Ex Parte* Letter); Letter from Jennifer L. Hoh, Senior Staff Consultant, Verizon, to Magalie Roman Salas, Secretary, Federal Communications Commission (Aug. 24, 2001) (Verizon Aug. 24 *Ex Parte* Letter); Letter from Jennifer L. Hoh, Senior Staff Consultant, Verizon, to Magalie Roman Salas, Secretary, Federal Communications Commission (Aug. 31, 2001) (Verizon Aug. 31 *Ex Parte* Letter); Letter from Richard T. Ellis, Director-Federal Affairs, Verizon, to Magalie Roman Salas, Federal Communications Commission (Sept. 19, 2001) (Verizon Sept. 19 *Ex Parte* Letter).

¹³ 47 C.F.R. § 61.58.

¹⁴ See Letter from Richard T. Ellis, Director-Federal Affairs, Verizon, to Magalie Roman Salas, Secretary, Federal Communications Commission (filed Sept. 25, 2001) (Application No. 10) and Letter from Richard T. Ellis, Director-Federal Affairs, Verizon, to Magalie Roman Salas, Secretary, Federal

customers who incurred charges relative to DC power while the tariff revisions in Transmittal Nos. 1373 and 1374 were in effect greater than they would have incurred under Verizon's previously effective tariffed rates, terms and conditions. The tariff revisions reflected in Verizon's Transmittal No. 94, together with Verizon's commitment to make refunds, resolve all the issues under investigation in this proceeding.¹⁵ We therefore terminate our investigation of Transmittal Nos. 1373 and 1374.

Accordingly, IT IS ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), the investigation and accounting order imposed by the Common Carrier Bureau in CC Docket No. 01-140 with respect to the Bell Atlantic Telephone Companies Revisions in Tariff FCC Nos. 1 and 11, Transmittal Nos. 1373 and 1374, ARE TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

Communications Commission (filed Sept. 25, 2001) (Transmittal No. 94). The Bureau granted Verizon's application and waived 47 C.F.R. § 61.58 in Special Permission No. 01-098 on September 25, 2001.

¹⁵ In its petition to reject or suspend Verizon's tariff filings, Conversent argues that, under its prior tariff, Verizon had been charging collocators improperly for DC power on a per-fused amp basis in violation of the tariff language. *See* Conversent Petition at 7-10. Neither Verizon's prior rates nor its billing practices with respect to those rates are at issue in this investigation, which is limited to Verizon's Transmittal Nos. 1373 and 1374. Parties wishing to challenge those rates or practices may file a complaint pursuant to section 208 of the Communications Act, 47 U.S.C. § 208. We note, however, that the reinstated rates, terms and conditions are subject to investigation in CC Docket Nos. 94-97, 96-165, and 98-240.